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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,549	04/25/2001	Richard L. Baer	10003419	7608

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

VU, NGOC YEN T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 10/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/842,549

Applicant(s)
Richard L. BAER

Examiner
Ngoc-Yen Vu

Art Unit
2612



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 25, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Apr 25, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ota (US #5,194,960).

Claims 5-8 will be discussed first. Regarding claim 5, in figures 1, 10 and 24, Ota '960 teaches an apparatus for exposure control, comprising:

means for determining a number of clipped pixels from an image scene for one or more of a set of possible exposures (luminance signal processing circuit 6/11 and counters 19a-n, 21a-n, 23a-n);

means (CPU 10, 20, 24) for determining a selected exposure from the possible exposures such that the possible exposures higher than the selected exposure increase the number and the possible exposures less than the selected exposure do not substantially decrease the number (col. 11 line 67 - col. 12 line 64; col. 18 line 8 - col. 19 line 7; col. 25 line 13 - col. 26 line 46).

As to claim 6, Ota '960 teaches that for each possible exposure the means for determining a number of clipped pixels comprises means for measuring an amplitude of each of a set of pixels in the image scene (Figs. 4, 7, 11-12, 14-15, 17-18, 20-22); means for generating a

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histogram of a number of the pixels from the image scene verses the corresponding amplitude (Figs. 4, 7, 14, 17, 20, 28); means for detecting a jump in the number of pixels at a high pixel amplitude (Figs. 4, 7, 14, 17, 20, 28).

As to claim 7, Ota teaches the means for determining a number of clipped pixels comprises means for setting a starting exposure and determining the number of clipped pixels from the image scene for the starting exposure (see Figs. 5-6, 8-9, 11, 16, 19); means for setting a series of increased exposures and determining the number of clipped pixels from the image scene for the increased exposures (see Figs. 5-6, 8-9, 11, 16, 19); means for setting a series of decreased exposures and determining the number of clipped pixels from the image scene for the decreased exposures (see Figs. 5-6, 8-9, 11, 16, 19).

As to claim 8, Ota teaches the means for determining a selected exposure comprises means for determining a subset of the possible exposures for which the number is relatively unchanged (see Figs. 11, 12, 14, 17, 20); and means for determining a first one of the possible exposures higher than the subset for which the number increases (see Figs. 11, 12, 14, 17, 20).

Regarding claims 1-4, claims 1-4 are method claims corresponding to the apparatus claims 5-8, respectively. Therefore, claims 1-4 are analyzed and rejected as previously discussed with respect to claims 5-8.

Regarding claim 9, in figures 1, 10 and 24, Ota '960 teaches a digital camera, comprising:

image sensor (CCD 9 & 4);

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exposure mechanism that provides a set of possible exposures to the image sensor from an image scene (CPU 10, 20, 24);

image processor that determines a number of clipped pixels from an image scene for one or more of a set of possible exposures (luminance signal processing circuit 6/11 and counters 19a-n, 21a-n, 23a-n); and that determines a selected exposure from the possible exposures such that the possible exposures higher than the selected exposure increase the number and the possible exposures less than the selected exposure do not substantially decrease the number (col. 11 line 67 - col. 12 line 64; col. 18 line 8 - col. 19 line 7; col. 25 line 13 - col. 26 line 46).

As to claim **10**, see the Examiner's comments regarding claim 6.

As to claim **11**, see the Examiner's comments regarding claim 7.

As to claim **12**, see the Examiner's comments regarding claim 8.

Conclusion

3. **Any response to this office action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications intended for entry)

(for informal or draft communications, please label

"PROPOSED" or "DRAFT")

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington.
VA., Sixth Floor (Receptionist).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ngoc-Yen Vu** whose telephone number is (703) 305-4946. The examiner can normally be reached on Mon. - Fri. from 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reached on (703) 305-4929.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is (703) 306-0377.

NYV
09/22/2003



NGOC-YEN VU
PRIMARY EXAMINER

Group Art Unit 2612